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10 Resurgent Capital Services LP

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 ARTIS-RAY CASH JR.,

14 Plaintiff,

15 vs.

16 RESURGENT CAPITAL SERVICES
17 L.P.,

18 Defendant.

Case No.: 2:24-cv-10356-ODW-SK

**DEFENDANT RESURGENT
CAPITAL SERVICES LP'S
AMENDED NOTICE OF MOTION
AND MOTION FOR JUDGMENT
ON THE PLEADINGS PURSUANT
TO FED. R. CIV. P. 12(c) AND 28
U.S.C. § 1915(e)(2)(A)**

Hearing

Date: August 25, 2025

Time: 1:30 p.m.

Crtrm.: 5D

YU | MOHANDESI LLP
633 West Fifth Street, Suite 2800
Los Angeles, CA 90071

TO THE COURT AND *PRO SE* PLAINTIFF:

PLEASE TAKE NOTICE that on August 25, 2025 at 1:30 p.m., or as soon as may be heard thereafter, in Courtroom 5D of the First Street Courthouse, located at 350 W. 1st Street, Los Angeles, CA. 90012, the Honorable Otis D. Wright II presiding, Defendant Resurgent Capital Services LP (“Defendant”) will, and hereby does, move for an order dismissing Plaintiff Artis-Ray Cash Jr.’s (“Plaintiff”) Complaint pursuant to Rule 12(c) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1915(e)(2)(A).

Plaintiff’s Complaint fails as a matter of law for two reasons. First, pulling Plaintiff’s credit report in connection with debt collection does not violate the Fair Credit Reporting Act (“FCRA”) or the Fair Debt Collection Practices Act (“FDCPA”) as a matter of law. Second, Plaintiff is a serial *pro se* litigant who failed to disclose prior settlements on his application to proceed *in forma pauperis*. Accordingly, Plaintiff’s Complaint should be dismissed with prejudice on these two independent bases.

This motion is made following the conference of counsel pursuant to L.R. 7-3 which took place on April 9, 2025, and again on May 12 and 16, 2025.

This Motion is based on this Notice, the attached Memorandum of Points and Authorities, the Request for Judicial Notice concurrently filed, the pleadings and records on file in this action, and on any other argument or evidence that may be presented in support of this Motion.

DATED: July 22, 2025

YU | MOHANDESI LLP

By /s/ B. Ben Mohandesi

B. Ben Mohandesi

Attorneys for Defendant

Resurgent Capital Services LP

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Serial pro se litigant Artis-Ray Cash Jr. (“Plaintiff”) has brought two fatally defective claims against Resurgent Capital Services LP (“Defendant”) for alleged violation of (1) the Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq. (“FCRA”), and (2) the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (“FDCPA”). Plaintiff bases both claims solely on his allegation that Defendant requested his credit report without a permissible purpose. However, as courts in this circuit have repeatedly held, “requesting a credit report with the intent to collect on a debt” – which Plaintiff admits Defendant did here – “is one of the permissible purposes under the FCRA.” *Jones v. Best Serv. Co.*, 700 Fed. Appx. 580, 581 (9th Cir. 2017). Thus, Plaintiff has failed to allege any cognizable violation of the FCRA, and by extension, the FDCPA.

Equally importantly, Plaintiff brought these meritless claims in bad faith, based on a false representation of poverty. Specifically, Plaintiff applied to this Court to proceed *in forma pauperis* (See ECF No. 2) without disclosing the income he had earned through prior litigation settlements. Plaintiff’s deliberate concealment of his settlement income constitutes a separate, independent ground to dismiss this action. *See Roberts v. Beard*, 2019 WL 3532183, at *4 (S.D. Cal. Aug. 2, 2019) (dismissing claims of *pro se* defendant based on his failure to disclose a prior settlement of \$3,000 on the application to proceed *in forma pauperis*).

Accordingly, because Plaintiff’s claims fail as a matter of law – and further, because he deliberately misrepresented his financial status – Defendant respectfully requests that the Court dismiss his Complaint with prejudice.

II. RELEVANT FACTS

A. The Allegations of Plaintiff’s Complaint

Plaintiff alleges that while reviewing his credit report in November 2024, he discovered an “unauthorized inquiry” from Defendant. Cmplt., ¶ 11. Plaintiff further

1 alleges that because he did not authorize this inquiry, “Defendant lacked a permissible
2 purpose under the FCRA for obtaining Plaintiff’s consumer report.” Cmplt., ¶¶ 12-13.
3 According to Plaintiff, Defendant’s conduct violated both the FCRA and FDCPA.
4 Cmplt., ¶¶ 32, 38. However, Plaintiff admits that Defendant pulled his consumer
5 report while attempting to collect a debt from him. Cmplt., ¶¶ 37-38. This is the sum
6 and substance of Plaintiff’s Complaint.

7 **B. Plaintiff’s Application to Proceed in Forma Pauperis**

8 On December 2, 2024, Plaintiff applied to proceed *in forma pauperis* (ECF No.
9 2). In his application, Plaintiff declared under penalty of perjury that he had a
10 monthly income of \$2,100.00, and no income from any other source in the past twelve
11 months. Plaintiff failed to disclose the settlement proceeds he received from his
12 multiple prior FCRA cases.

13 Importantly, at least two other courts in the Central District have dismissed
14 Plaintiff’s claims on this precise basis. *See* Request for Judicial Notice (“RJN”),
15 Exhs. A and B: *Cash v. Experian Information Solutions, Inc., et al.*, No. 8:25-cv-
16 00165-JWH-ADSx, Order Granting Defendant’s Motion to Dismiss, dated May 6,
17 2025 (ECF No. 29) (dismissing FCRA action with prejudice because “Cash
18 deliberately concealed his prior settlement income in order to gain access to this Court
19 without prepayment of filing fees.”); and *Cash v. Diverse Finding Associates*, No.
20 2:24-cv-10354-WLH-SHK, Order Re Motion to Dismiss, dated June 17, 2025 (ECF
21 No. 39) (“[T]he Court finds that [Cash’s] allegation of poverty was untrue and made
22 in bad faith. Dismissal with prejudice is warranted under 28 U.S.C. §
23 1915(e)(2)(A).”).

24 **III. THE COMPLAINT SHOULD BE DISMISSED FOR FAILURE TO**
25 **STATE A CLAIM UNDER THE FCRA OR FDCPA**

26 “After the pleadings are closed—but early enough not to delay trial—a party
27 may move for judgment on the pleadings.” Fed. R. Civ. P. 12(c). The legal standards
28 governing Rule 12(c) and 12(b)(6) motions are “functionally identical,” *Cafasso, U.S.*

1 *ex rel. v. General Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1054 n. 4 (9th Cir. 2011).
2 Thus, the standard articulated in *Twombly* and *Iqbal* applies equally to a motion for
3 judgment on the pleadings. *Chavez v. United States*, 683 F.3d 1102, 1108–09 (9th
4 Cir. 2012).

5 To survive a motion for judgment on the pleadings, “a complaint must contain
6 sufficient factual matter ... to ‘state a claim to relief that is plausible on its face.’”
7 *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). This “facial plausibility” standard
8 requires the plaintiff to allege facts that add up to “more than a sheer possibility that a
9 defendant has acted unlawfully.” *Id.*, 556 U.S. at 678. While courts do not require
10 “heightened fact pleading of specifics,” a plaintiff must allege facts sufficient to “raise
11 a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S.
12 544, 555 (2007). Thus, “a formulaic recitation of the elements of a cause of action
13 will not do.” *Id.* Moreover, courts may disregard “allegations that are merely
14 conclusory, unwarranted deductions of fact, or unreasonable inferences.” *In re Gilead*
15 *Scis. Sec. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008).

16 Here, Plaintiff’s conclusory allegation that Defendant did not have a
17 permissible purpose in pulling his credit report is belied by Plaintiff’s own admission
18 that Defendant was attempting to collect a debt from him. Given this admission,
19 Plaintiff has “pled himself out” of his claims. *Salmas v. Portfolio Recovery Assocs.*,
20 *LLC*, No. SACV 13-0575-DOC, 2013 WL 6182614, at *3 (C.D. Cal. Nov. 25, 2013).

21 **A. Plaintiff’s FCRA Claim Fails As a Matter of Law**

22 In the Ninth Circuit, it is well established that “requesting a credit report with
23 the intent to collect on a debt is one of the permissible purposes under the FCRA.”
24 *Jones, supra*, 700 Fed. Appx. at 581. Thus, “[a] collection agency is permitted to
25 obtain a consumer report if the agency is doing so for the purposes of collecting a
26 debt.” *Pyle v. First Nat. Collection Bureau*, 2012 WL 1413970 at *3 (E.D. Cal. Apr.
27 23, 2012). “Where a permissible purpose for obtaining the credit information is
28 demonstrated, then, as a matter of law, the information cannot have been obtained

1 under false pretenses.” *Perretta v. Capital Acquisitions & Management Co.*, 2003
2 WL 21383757 at *5 (N.D. Cal. May 5, 2003) (granting motion to dismiss FCRA
3 claim because “defendant obtained plaintiff’s consumer report ... in connection with an
4 effort to collect a debt.”) (citations omitted). Plaintiff’s own allegation that Defendant
5 attempted to collect a debt from him strongly supports the conclusion that Defendant
6 was not required to secure Plaintiff’s permission to access his credit report.

7 Courts have repeatedly dismissed cases with nearly identical facts to this case.
8 For example, in *Jones*, the Ninth Circuit affirmed dismissal where the plaintiff “failed
9 to allege that the defendant, a debt collector, had requested his credit report for any
10 reason other than to attempt to collect on the debt.” *Jones*, 700 Fed. Appx. at 581.
11 Likewise, in *Salmas*, 2013 WL 6182614, at *3, the Central District reasoned that “by
12 alleging that [defendant] obtained his consumer report and then attempted to collect a
13 debt, [plaintiff] has pled himself out of his FCRA claim by including details contrary
14 to his claim.” The Court dismissed Plaintiff’s FCRA claim on this basis. *See also*
15 *Rojas v. Cap. One Bank (USA) N.A.*, 2017 WL 7806584, at *4 (C.D. Cal. Aug. 14,
16 2017) (dismissing complaint where the plaintiff’s “own allegations [in a prior
17 pleading] indicated [defendant’s] actions were permissible since Plaintiff alleged
18 [defendant] operated as a debt collection agency”).

19 Here, Plaintiff’s FCRA claim is based on a single, conclusory allegation: that
20 Defendant obtained a copy of his credit report from Experian without Plaintiff’s prior
21 authorization and/or a permissible purpose. Cmplt., ¶¶ 9-13 and Exh. A. Yet Plaintiff
22 also asserts that Defendant was attempting to collect a debt from him in alleged
23 violation of the FDCPA. Cmplt., ¶¶ 37-38. Plaintiff’s tacit admission that Defendant
24 was attempting to collect a debt from him bars his FCRA claim. As in *Jones*, *Salmas*
25 and *Rojas*, Plaintiff has pled himself out of FCRA claim, and it should be dismissed
26 with prejudice on this basis.

27 **B. Plaintiff’s FDCPA Claim Fails As a Matter of Law**

28 “Congress enacted the FDCPA to protect consumers from ‘improper conduct’

1 and illegitimate collection practices ‘without imposing unnecessary restrictions on
2 ethical debt collectors.’” *Clark v. Capital Credit & Collection Servs., Inc.*, 460 F.3d
3 1162, 1169-70 (9th Cir. 2006) (citation omitted). “There are four elements to an
4 FDCPA cause of action: (1) the plaintiff is a ‘consumer’ under 15 U.S.C. § 1692a(3);
5 (2) the debt arises out of a transaction entered into for personal purposes; (3) the
6 defendant is a ‘debt collector’ under 15 U.S.C. § 1692a(6); and (4) the defendant
7 violated one of the provisions contained in 15 U.S.C. §§ 1692a-1692o.” *Wheeler v.*
8 *Premiere Credit of North America, LLC*, 80 F. Supp. 3d 1108, 1112 (S.D. Cal. 2015)
9 (citing *Turner v. Cook*, 362 F.3d 1219, 1226-27 (9th Cir. 2004))

10 Section § 1692e(10) provides in relevant part that a debt collector violates the
11 FDCPA when it uses “any false representation or deceptive means to collect or
12 attempt to collect any debt or to obtain information concerning a consumer.” Here,
13 the only “false representation or deceptive mean” Plaintiff alleges is Defendant’s
14 “pulling [his] consumer credit report without a permissible purpose.” Cmpl’t., ¶ 39.
15 However, as discussed above, it is wholly permissible to pull a credit report in
16 connection with debt collection.

17 Moreover, Plaintiff has failed to identify any other facts that would possibly
18 support his FDCPA claim. *See Gomes v. Mortg. Elec. Registration Sys., Inc.*, 2012
19 WL 370542, at *5 (E.D. Cal. Feb. 3, 2012) (plaintiff’s “vague and conclusory”
20 reference to defendant’s “false representations, deceptive means, and actions,” in the
21 absence of “specific facts regarding any improper debt collection efforts[,] ... fails to
22 state a claim for violation of the FDCPA”); *Chyba v. Green Tree Servicing, LLC*, 586
23 Fed. Appx. 397, 398 (9th Cir. 2014) (dismissal of FDCPA claims was warranted
24 where plaintiff “failed to allege facts sufficient to show ... that [defendant debt
25 collector] used any false representation in connection with the collection of a debt”).

26 Thus, Plaintiff’s FDCPA should also be dismissed with prejudice.

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28 ///

1 **IV. THE COMPLAINT SHOULD BE DISMISSED BECAUSE**
2 **PLAINTIFF’S ATTESTATION OF POVERTY IS UNTRUE**

3 “To proceed in forma pauperis is a privilege not a right.” *Smart v. Heinze*, 347
4 F.2d 114, 116 (9th Cir. 1965). The in forma pauperis (“IFP”) statute requires
5 dismissal of a case if “at any time if the court determines that . . . the allegation of
6 poverty is untrue....” 28 U.S.C. § 1915(e)(2)(A). *See also Roberts*, *supra*, 2019 WL
7 3532183, at *3. “To dismiss [a] complaint pursuant to § 1915(e)(2), a showing of bad
8 faith is required.” *Roberts*, 2019 WL 3532183, at *3 (quoting *Escobedo v. Applebees*,
9 787 F.3d 1226, 1235 n.8 (9th Cir. 2015)). Bad faith “includes deliberate concealment
10 of income in order to gain access to a court without prepayment of filing fees.” *Id.* at
11 *3-4 (dismissing complaint with prejudice because the plaintiff concealed settlement
12 proceeds) (quoting *Vann v. Comm’r of N.Y.C. Dep’t of Corr.*, 496 F. App’x 113, 115
13 (2d Cir. 2012)).

14 “[C]ourts routinely dismiss with prejudice cases upon finding that the plaintiff
15 has intentionally withheld information that may have disqualified plaintiff from
16 obtaining IFP status or has otherwise manipulated his finances to make it appear that a
17 plaintiff is poorer than he actually is; *i.e.*, where the facts show that the inaccuracy
18 on the IFP application resulted from the plaintiff’s bad faith.” *Witkin v. Lee*, 2020 WL
19 2512383, at *3-4 (E.D. Cal. May 15, 2020), *report and recommendation adopted*,
20 2020 WL 4350094 (E.D. Cal. July 29, 2020). *See also Vann*, 496 F. App’x at 115
21 (“dismissal under § 1915(e)(2)(A) is certainly appropriate where a plaintiff conceals
22 or misrepresents his or her financial assets or history in bad faith to obtain in forma
23 pauperis status”). When determining if a plaintiff acted in bad faith, “a court may
24 consider a plaintiff’s familiarity with the in forma pauperis system and history of
25 litigation.” *Vann*, 496 F. App’x at 115. *See also Roberts*, 2019 WL 3532183, at *4.

26 Here, as another Court in the Central District recently held, Plaintiff acted in
27 bad faith when he “deliberately concealed his prior settlement income in order to gain
28 access to this Court without prepayment of filing fees.” RJN, Exh. A.

A. Plaintiff Concealed Prior Settlements on His IFP Application

Plaintiff is a serial litigant who has filed over 20 actions in the Central District – including more than a dozen cases in just the past eight months. *See* RJN, Exh. C. In at least two of these cases, Plaintiff entered settlement agreements within the twelve months prior to filing his IFP application in this case on December 2, 2024: one in *Cash v. Experian*, Case No. 2:23-cv-06688 (settled February 13, 2024), and another in *Cash v. Midland*, Case No. 2:23-cv-10126 (settled July 22, 2024). *See* RJN, Exhs. D and E.

But Plaintiff failed to disclose any settlement proceeds in his December 2, 2024 IFP application in this case (or in prior cases). *See* ECF No. 2. Question 2 of the IFP application asks, “Have you received, within the past twelve months, any money from any of the following sources?” and lists sources of money, including a catchall provision for “[a]ny other income (other than listed above).” *Id.* Plaintiff checked “no” for all sources. *Id.* And Plaintiff declared under penalty of perjury that the responses he made were true, correct and complete. *Id.* Thus, Plaintiff concealed crucial information that was necessary for the Court to make an accurate assessment of his eligibility for relief under the IFP statute.

B. Plaintiff Acted in Bad Faith

Plaintiff’s failure to disclose his prior settlements on his IFP application in this case was no innocent mistake, but part of a calculated litigation tactic. Plaintiff has repeatedly failed to disclose settlement proceeds he received in other IFP applications, and has twice received dismissals with prejudice for this same misconduct in other cases he filed. Moreover, Plaintiff’s extensive history of prosecuting claims – with multiple cases filed in rapid succession – demonstrates a deliberate, bad faith strategy. *See Roberts*, 2019 WL 3532183, at *3 (rejecting the plaintiff’s claim that omission of a settlement was an oversight based on the plaintiff’s extensive litigation history and familiarity with the IFP process). As Judge Wesley L. Hsu recently found:

1 Based on Plaintiff's failure to oppose this Motion, his failure to disclose
2 relevant settlement agreements in the December 2, 2024, IFP application
3 and repeated concealment of income in prior IFP applications, the Court
finds that the allegation of poverty was untrue and made in bad faith.
Dismissal with prejudice is warranted under 28 U.S.C. § 1915(e)(2)(A).

4 See RJN, Exh. B at pp. *3-4.

5 Here, the Court is confronted with nearly identical facts, and should make the
6 same finding of bad faith, warranting dismissal with prejudice.

7 **V. CONCLUSION**

8 Plaintiff's FCRA and FDCPA claims fail as a matter of law, and he deliberately
9 concealed his prior settlement income on his IFP application in bad faith. Thus,
10 Defendant respectfully requests that Plaintiff's Complaint be dismissed with prejudice
11 under Fed. R. Civ. P. 12(c) and 28 U.S.C. § 1915(e)(2)(A).

12
13 **Certificate of Compliance Pursuant to L.R. 11-6.2**

14 The undersigned, counsel of record for Defendant, Resurgent Capital Services
15 LP, certifies that this brief contains 2,491 words, which complies with the word limit
16 of L.R. 11-6.1.

17 DATED: July 22, 2025

YU | MOHANDESI LLP

18
19 By /s/ B. Ben Mohandesi

B. Ben Mohandesi

Attorneys for Defendant

Resurgent Capital Services LP

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date executed below, a true and correct copy of the following:

- DEFENDANT RESURGENT CAPITAL SERVICES LP'S AMENDED NOTICE OF MOTION AND MOTION TO DISMISS COMPLAINT PURSUANT TO FED. R. CIV. P. 12(c) AND 28 U.S.C. § 1915(e)(2)(A)**

was duly served upon the following party in the matter at the address indicated below:

	CM/ECF	MAIL	E-MAIL
Artis-Ray Cash 453 South Spring Street, Suite 400 PMB 1211 Los Angeles CA 90013 Email: artiscashjr@yahoo.com <i>Plaintiff Pro Se</i>			X

DATED: July 23, 2025

By /s/ B. Ben Mohandesi
B. Ben Mohandesi